

EMILY R. PIDOT
PAUL HASTINGS LLP
75 East 55th Street
New York, New York 10022
(212) 318-6000
emilypidot@paulhastings.com

Attorneys for Defendant
CAPITAL ONE, N.A.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JAMES A. GROSS,

Plaintiff,

- against -

CAPITAL ONE, N.A.,

Defendant.

CV 12-2858 (DRH) (ARL)

RULE 68 OFFER OF JUDGMENT

TO PLAINTIFF JAMES A. GROSS AND HIS ATTORNEYS OF RECORD, NEIL H.
GREENBERG & ASSOCIATES:

Pursuant to Federal Rule of Civil Procedure 68 ("Rule 68"), Defendant Capital One, N.A. hereby offers to allow judgment to be taken against it in this action, and in favor of Plaintiff James A. Gross, for the sum of One Hundred Ten Thousand Dollars (\$110,000.00), plus costs and attorney's fees reasonably incurred to date in an amount to be determined by the Court absent mutual agreement on the amount. This offer of judgment is made for the purposes specified in Rule 68, and is not to be construed either as an admission that Defendant is liable in this action, or that Plaintiff has suffered any damage or is entitled to any costs and/or attorney's fees.

If this offer is not accepted by Plaintiff within fourteen (14) days after service of this offer in the manner set forth in Rule 68, this offer shall be deemed withdrawn. Evidence of this offer is not admissible in this action, or in any other legal action, except in a proceeding in this action to determine an award of costs and/or attorney's fees.

Further, if this offer is not accepted by Plaintiff within the time specified, and if the judgment, if any, finally obtained by Plaintiff is not more favorable to Plaintiff than this offer, then pursuant to Rule 68(d), Plaintiff must pay the costs incurred after this offer was made.

Dated: June 13, 2013

By:



Emily R. Pidot
PAUL HASTINGS LLP
75 East 55th Street
New York, NY 10022
(212) 318-6279
emilypidot@paulhastings.com

Attorneys for Defendant
CAPITAL ONE, N.A.

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2013, a copy of the foregoing Rule 68 Offer of Judgment was served by overnight mail to counsel for Plaintiff at the following address:

Justin Reilly, Esq.
Neil H Greenberg & Associates
900 Merchants Concourse
Westbury, NY 11590



Emily R. Pidot

EMILY R. PIDOT
PAUL HASTINGS LLP
75 East 55th Street
New York, New York 10022
(212) 318-6000
emilypidot@paulhastings.com

Attorneys for Defendant
CAPITAL ONE, N.A.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JAMES A. GROSS,

Plaintiff,

- against -

CAPITAL ONE, N.A.,

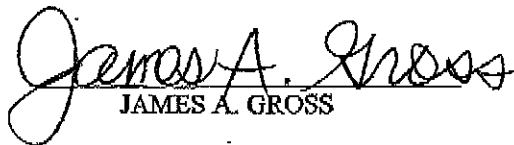
Defendant.

CV 12-2858 (DRH) (ARL)

**PLAINTIFF'S ACCEPTANCE OF
DEFENDANT'S RULE 68
OFFER OF JUDGMENT**

I, James A. Gross, hereby accept Defendant Capital One, N.A.'s Rule 68 Offer of
Judgment attached hereto.

Dated: 6/27/13


JAMES A. GROSS